

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

PRIMO'S RESTAURANT,

Plaintiff,

v.

THOMAS RIDGE, as Secretary of the  
Department of Homeland Security;  
EDUARDO AGUIRRE, Director of U.S.  
Citizenship & Immigration Services; Paul  
NOVAK, as Center Director of the U.S.  
Citizenship & Immigration Services for  
Vermont Service Center,

Defendant.

**Civil Action No. 04-12162-NG**

**PARTIES' JOINT STATEMENT  
IN ACCORDANCE WITH LOCAL RULE 16.1(D)**

Plaintiff and Defendant hereby submit the following joint statement regarding pre-trial scheduling.

The Plaintiff challenges the July 9, 2004, decision of the Vermont Service Center (VSC) of the U.S. Citizenship and Immigration Services (USCIS or Service). In that decision, the VSC denied the I-140 Immigrant Worker petition filed by Petitioner Primo's Restaurant to obtain an employment-based immigrant worker visa for Bahadur Singh as an unskilled worker (cook), under section 203 (b)(3)(A)(iii) of the Immigration and Nationality Act ("INA"). Plaintiff initiated the instant litigation when VSC rejected Petitioner's administrative appeal of this decision. On January 5, 2005, VSC retracted that rejection and permitted Petitioner's appeal. The USCIS Administrative Appeals Office (AAO) affirmed the VSC decision on January 31, 2005. Defendants filed an Answer to the Complaint on March 9, 2005.

**1. Automatic Disclosure Pursuant to Local Rule 26.2(A)**

This case seeks review of a final agency action based on the agency's administrative record. The administrative record for the administrative proceedings has been compiled and will be made available to Plaintiff's counsel by July 15, 2005.

**2. Joint Discovery Plan**

This case seeks review of a final agency action based on the agency's administrative record and is not expected to require traditional discovery. The case is likely to involve motion practice and may eventually be disposed of on Summary Judgment. Therefore, the Defendants believe that discovery is not necessary at this time. However, each party reserves the right to file a motion with the Court to request discovery if they believe discovery is warranted.

**3. Proposed Procedural and Motion Schedule**

August 31, 2005 Plaintiff's Motion for Discovery filed.

September 16, 2005 Defendants' Opposition and Reply filed.

Oral argument and/or hearings at the Court's discretion.

October 31, 2005 Plaintiff's Cross-Motion for Summary Judgment filed.

November 30, 2005 Defendants' Opposition and Cross-Motion for Summary Judgment filed.

Oral argument and/or hearings at the Court's discretion.

**4. Certification of Budget and ADR Conference**

**Plaintiff**

Plaintiffs' counsel certifies that he has conferred with the plaintiff: (1) with a view

toward establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation; and (2) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

**Defendants**

Defendants' counsel certifies that he has conferred with an authorized representative of the defendant: (1) with a view toward establishing a budget for the costs of conducting the full course – and various alternative courses – of the litigation; and (2) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

The certification of all parties and their respective counsels are in the process of being obtained.

**5. Settlement Proposals**

There are no settlement proposals pending at this time.

Respectfully submitted,

For the Plaintiff,

PRIMO'S RESTAURANT

By: /s/ Desmond P. FitzGerald

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For the Defendant,

FEDERAL AVIATION ADMINISTRATION

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DATED: July 7, 2005

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing documents, Parties' Joint Statement in Accordance with Local Rule 16.1 (D), filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on March 22, 2006.

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